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October 3, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

Re: CC Dkt. No. 96-61

Dear Mr. Caton:

Transmitted herewith on behalf of Telephone and Data Systems, Inc., by its attorneys, are an original and nine copies of its Petition for Partial Reconsideration in the above-referenced proceeding. Additional copies are also being provided to the Commission offices and ITS as disclosed below.

If there are any questions or comments concerning this matter, please communicate with the undersigned.

Very truly yours,

George Y. Wheeler

cc: Wanda Harris, Common Carrier Bureau
International Transcription Services
Chief, Competitive Pricing Division
Jeanine Poltronieri, Associate Chief, Wireless
Telecommunications Bureau

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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of	)	
	)	
Policy and Rules Concerning the Interstate, Interexchange Marketplace	)	CC Dkt. NO. 96-61
	)	
	)	
Implementation of Section 254(g) of the Communications Act of 1934, as amended	)	
	)	
	)	
To: The Commission	)	

PETITION FOR PARTIAL RECONSIDERATION
OF TELEPHONE AND DATA SYSTEMS, INC.

Telephone and Data Systems, Inc., on behalf of itself and its subsidiaries, Aerial Communications, Inc. ("Aerial"), and United States Cellular Corporation ("USCC"), (collectively "TDS"), by its attorneys, requests partial reconsideration pursuant to Section 1.429 of the Commission's rules of the Commission's First Memorandum Opinion and Order on Reconsideration (FCC 97-269) released July 30, 1997 ("First MO &O") in the above-captioned proceeding.

INTRODUCTION

TDS previously filed comments on September 29, 1997 in support of the stay of enforcement of Section 64.1801 of the Commission's rules requested by PrimeCo Personal Communications, LP ("PrimeCo"). Numerous other commentors including AirTouch Communications, Inc., BellSouth Corporation ("BellSouth"), Cellular Telecommunications

Industry Association ("CTIA"), Omnipoint Communications, Inc. ("Omnipoint"), Personal Communications Industry Association and U.S. West, Inc. ("US West") also supported the PrimeCo Motion for Stay. These filings provide a substantial record for grant of the requested stay and for reconsideration here.

TDS agrees with numerous commentors that the Commission's decision to apply its rate integration requirements to interstate interexchange CMRS services in its First MO&O does not reflect important differences between the wireline and the CMRS industries. Congress' preemption of state entry and ratemaking authority over CMRS, the Commission's expansive reallocations of spectrum for new CMRS market entry, promotion of market based CMRS service areas, detariffing of CMRS offerings, adoption of flexible CMRS service options and other deregulatory and forbearance actions have encouraged numerous innovative, flexible and highly cost-competitive CMRS service offerings. With advent of new small business entry into the CMRS industry following the C/F Block PCS auctions, the number and pace of diverse new CMRS offerings will expand rapidly fulfilling the Congressional mandate under Section 332 of the Communications Act of 1934, as amended (the "Act").

The regulatory paradigm in which the Commission historically imposed rate regulation policies has given way, particularly in the case of CMRS services, to primary reliance upon competitive market forces. The Commission has aggressively promoted the availability of cost-effective CMRS services throughout the U.S. in its spectrum allocation policies, in its auction rules and in its CMRS licensing rules. The public benefits from competition within the CMRS industry in terms of expanded service offerings, innovative uses of new technologies, competitive pricing and qualitative improvements in existing services are already documented in the

Commission's annual reports to Congress.[1]

Implementation of Section 254(g) of the Act does not require the abandonment or diminution of the foregoing pro-competitive initiatives and the resulting consumer benefits. The Commission should reverse its decision to apply rate integration requirements to CMRS providers: (1) by confirming that Section 64.1801 of its rules applies only to the categories of providers subject to its rate integration policies as of the date of enactment of Section 254(g) of the Act; or (2) by forbearing from applying Section 254(g) of the Act and Section 64.1801 of its rules to CMRS providers as permitted under Section 10(a) of the Act.

DISCUSSION

1. The Commission Should Confirm that Section 64.1801 of the Rules Applies Only to the Categories of Providers Subject to Rate Integration as of the Date of Enactment of Section 254(g) of the Act.

TDS strongly supports the positions previously presented by BellSouth,[2] CTIA[3] and U.S. West[4] that Congress did not direct the Commission to expand the coverage of its rate integration requirements to encompass the CMRS industry. As the Commission stated in the First MO&O, ". . . Congress intended Section 254(g) to codify our pre-existing rate integration policy . . ."[5] which did not cover the CMRS industry. In the absence of any such statutory support for the

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[1] See, for example, FCC "Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, (FCC 97-75) released March 25, 1997.

[2] BellSouth Comments, pp. 2-5.

[3] CTIA Comments, p. 3.

[4] US West Comments, p. 3.

[5] First MO&O, ¶18.

imposition of new rate integration requirements on the CMRS industry, the Commission is fully justified in limiting the application of its rate integration policies to the categories of providers which have historically been subject to such requirements.

2. The Commission Should Forbear From Applying Its Rate Integration Policies to CMRS Providers as Permitted Under Section 10(a) of the Act.

TDS also supports the positions of BellSouth[6] and Omnipoint[7] in their previously filed Comments regarding the Commission's authority under Section 10(a) of the Act to forbear from applying its rate integration requirements to the CMRS industry. As documented in numerous proceedings, the public benefits of the Commission's deregulatory and pro-competitive policies for the CMRS industry are already significant and are expected to increase as new CMRS entrants continue to emerge. The right of consumers to choose among this expanded number of CMRS providers is a powerful incentive for providers to meet consumer's needs in terms of price, quality and availability of service. Micromanagement under rate integration is not only unnecessary but counterproductive to the markets' ability to respond efficiently to these consumer needs. The Commission has ample grounds to forbear under Section 10(a) of the Act.

The implementation of the Commission's rate integration requirements across affiliates as applied to the CMRS industry demonstrates how such requirements are both burdensome and unnecessary. The fact that separate independently-managed subsidiaries of a holding company may not have the same rates for their interstate interexchange service offerings is not surprising

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[6] BellSouth Comments, pp. 7-12.

[7] Omnipoint Comments, pp. 2-4.

considering the competitive initiatives which the Commission has encouraged in its policies. For example, one such subsidiary might choose to use "postalized" rates for its interstate interexchange services in the 50 states while another such subsidiary might choose a mileage band approach for its 50 state interexchange offerings. The subscribers of each such provider are not disadvantaged in such circumstances. The Commission's objectives in these proceedings should be to preserve the consumer benefits from enhanced CMRS competition by declining to implement intrusive and burdensome regulations to compel rate integration across independently managed affiliates.

Finally TDS does not believe that the forbearance requested here prevents the Commission from effectively implementing Section 254(g) of the Act. Rather than impose intrusive and burdensome regulations to assure the compliance of individual CMRS providers where there is no evidence of abuse of the Commission's rules and policies, the Commission should rely upon its established complaint procedures under Section 208 of the Act to deal with problems, if any should arise.

CONCLUSION

The Commission has consistently relied on its pro-competitive policies for the CMRS industry to preserve and enhance consumer benefits including competitive prices, improved quality of established services, expanded availability of CMRS coverage, enhanced service options and heightened responsiveness to consumer needs. The implementation of rate integration as provided in Section 254(g) of the Act should not be an occasion for diminishing or foreclosing achievement of these benefits of CMRS competition by imposing intrusive and burdensome rate regulation

requirements. Section 254(g) does not require or even intend this result. In any event, the Commission has ample justification to forbear under Section 10(a) of the Act from applying rate integration to the CMRS industry.

Respectfully submitted,

TELEPHONE AND DATA SYSTEMS, INC.

By: /s/ George Y. Wheeler

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October 3, 1997

Its Attorneys

CERTIFICATE OF SERVICE

I, Lisa D. Burden, a legal secretary in the firm of Koteen & Naftalin, L.L.P., hereby certify that on the 3rd day of October, 1997, copies of the foregoing Petition for Reconsideration of Telephone and Data Systems, Inc. were deposited in the U.S. mail, postage prepaid, addressed to:

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